IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI CENTRAL DIVISION

ANTONIO R. VASQUEZ, Register No. 505273,)	
Plaintiff,)	
Tiumiti,)	
v.)	No. 04-4201-CV-C-NKL
HARLAN HATTON, et al.,))	
Defendants.)	

ORDER

On July 29, 2005, the United States Magistrate Judge recommended that defendants' motions to dismiss be granted, in part, and denied, in part. The parties were advised they could file written exceptions to the recommendation, pursuant to 28 U.S.C. § 636(b)(1)(C).

The court has conducted a de novo review of the record, including the exceptions filed by plaintiff on November 1, 2005. The issues raised in plaintiff's exceptions were adequately addressed in the report and recommendation. The court is persuaded that the recommendation of the Magistrate Judge is correct and should be adopted.

IT IS, THEREFORE, ORDERED that defendants' motions to dismiss are granted, in part, and denied, in part [46, 25, 39]. It is further

ORDERED that plaintiff's claims with regard to punitive damage claims against defendants City of Columbia and John Doe Police Chief, Hatton and Schlude, in their official capacities, are dismissed for failure to state a claim under 42 U.S.C. § 1983. It is further

ORDERED that plaintiff's claims that relate to the circumstances which led to plaintiff's criminal conviction (e.g., plaintiff's claims challenging Officer Hatton's probable cause in stopping of plaintiff's vehicle, allegations of an illegal search and seizure and allegations of failure to provide *Miranda* warnings), are dismissed, without prejudice, for failure to state a claim on which relief may be granted under section 1983. It is further

ORDERED that defendants' motions to dismiss are denied as to plaintiff's claims against defendants Hatton and Schlude regarding excessive use of force and claims against defendants John Doe Police Chief and the City of Columbia relating to the policy or custom with regard to such use of force.

<u>/s/</u>

NANETTE K. LAUGHREY United States District Judge

Dated: November 14, 2005 Jefferson City, Missouri